



AMERICAN  
PSYCHOLOGICAL  
ASSOCIATION

Practice Directorate

June 29, 2009

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1538-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

RE: CMS-1538-P  
Comments to the Proposed Regulations for Inpatient Rehabilitation  
Facility Prospective Payment System for Federal Fiscal Year 2010

To Whom It May Concern:

On behalf of the American Psychological Association (“APA”), I am submitting these comments to the Proposed Regulations for Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2010 (“IRF Proposed Regulations”). The APA is the largest association of psychologists worldwide, with 150,000 members and affiliates engaged in the practice, research and teaching of psychology. Our comments pertain to the proposed revisions to 42 CFR §412.29. We are pleased with changes made to 42 CFR §412.29(a), but have serious concerns about changes proposed to 42 CFR §412.29(a)(2), which is written so narrowly that it will exclude certain psychologists from providing services, negatively impacting patient care.

**A. Comment on Proposed Changes to 42 CFR § 412.29(a)**

We would like to commend the Centers for Medicare and Medicaid Services (“CMS”) for making the distinction between social services and psychological services in the proposed revisions to 42 CFR §412.29. Subsection (c) of that provision previously equated social services with psychological services, stating that IRFs need to provide, “rehabilitation nursing, physical therapy, and occupational therapy, plus, as needed, speech therapy, social services or psychological services, and orthotic and prosthetic services.” 42 CFR 412.29(c). This inappropriate equating of the two types of services would be corrected in IRF Proposed Regulations, which states in §412.29(a) that inpatient rehabilitation facilities provide, as needed, both social services and psychological services. 74 Fed. Reg. 21080.

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**B. Comment on and Request for Modification to Proposed Changes to 42 CFR § 412.29(a)(2)**

We would also like to express our concern that language proposed in §412.29(a)(2) is written so narrowly that it would have the effect of excluding services provided by many psychologists, upon which IRF patients rely. Section 412.29(a)(2) requires that IRFs provide services that “require the care of skilled professionals, such as ... neuropsychologists.” As discussed further below, APA recommends that CMS modify this language so that it is not limited only to neuropsychologists, but rather includes psychologists.

Proposed section §412.29 makes clear that IRFs should provide psychological services, not just neuropsychological services. We are not aware of any other Medicare regulations or manual provisions that exclude psychologists who are not neuropsychologists from furnishing services in rehabilitation facilities. Yet, for some reason not explained in the preamble, CMS lists only neuropsychologists in the subsection that expands on the types of skilled services that should be provided in IRFs. APA is concerned that by listing neuropsychologists, but not listing psychologists, the regulation will send the message to IRFs that they should exclude the services of other types of psychologists from their programs.

While it is true that many patients in IRFs rely on the valuable services of neuropsychologists, who specialize in brain behavior relationships and nervous system functions, many IRF patients also rely on the services of psychologists who are specially trained in rehabilitation services, but who are not neuropsychologists. Psychologists with this special expertise in rehabilitation are currently employed by IRFs all over the country and have been providing services in IRFs for decades. These psychologists provide critical behavioral services to IRF patients. They help them cope with and understand their disability, develop skills for managing stress and controlling pain, as well as providing direct treatment for mental health issues that may be brought about by their condition, such as depression and suicidal behavior.

Excluding non-neuropsychologists from furnishing services in IRFs is neither justified nor warranted. Though many years ago patients in IRFs primarily suffered from neurological disorders, that is no longer the case. According to the preamble, in 2007, IRFs treated approximately 400,000 Medicare cases for a variety of conditions, with almost a third treated for orthopedic, rather than neurological conditions. 74 Fed. Reg. 21067. We are also informed by our members that, per the Uniform Data System for Medical Rehabilitation, nearly two-thirds of the admissions to rehabilitation facilities in the past year were for non-neurological conditions.

The importance of psychology services, and not just neuropsychology services, to rehabilitation is well-recognized by the Commission on Accreditation of Rehabilitation Facilities (“CARF”), which accredits over 3000 medical rehabilitation programs in the

United States and abroad. The accreditation standards published by CARF specifically require that the programs they review furnish psychological services and include psychologists on patients' treatment teams.<sup>1</sup> In fact, the Brain Injury Program is the only CARF hospital-based program that specifically refers to neuropsychology, requiring the availability of both psychology and neuropsychology services.<sup>2</sup>

As discussed above, psychologists have been furnishing critical services to IRF patients for decades and their services are specifically required by the accreditation standards published by CARF. Exclusion of psychologists' services would negatively impact patient care. Accordingly, APA respectfully requests that CMS add "psychologists" to the list of providers in proposed 42 CFR §412.29(a)(2).

Thank you for your consideration of these comments. Should you have any questions or require additional information, please feel free to contact Maureen Testoni at 202-336-5886.

Very truly yours,

A handwritten signature in black ink, reading "Katherine Nordal, Ph.D.", with a stylized flourish at the end.

Katherine Nordal, Ph.D.

Executive Director for Professional Practice

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<sup>1</sup> CARF's 2009 Medical Rehabilitation Standards Manual specifically requires that psychologists be included in the team serving the patient. (See, e.g., Pediatric Specialty Interdisciplinary Pain Rehabilitation Program, Standard 27, Spinal Cord System of Care, Standard 6, Interdisciplinary Pain Rehabilitation Programs, Standard 9, Health Enhancement Programs, Standard 34.)

<sup>2</sup> CARF 2009 Medical Rehabilitation Standards Manual, Brain Injury Programs, Standard 3.